Per G.S.SINGHVI, CJ

Having failed to persuade the learned Single Judge to interfere with the action taken by Revenue Divisional Officer, Madanapalle (respondent No.3) for cancellation of his authorization as a fair price shop dealer at Nearbylu Village of Yerravaripalem Mandal, Chittoor District, on the ground of commission of grave irregularities by him, the appellant has filed this appeal under clause 15 of the Letters Patent.

Before adverting to the factual matrix of the case and the arguments of the learned counsel, we deem it proper to notice the parameters laid down by the Supreme Court for exercise of the High Court's power under Article 226 to issue a writ of certiorari. It is well-settled that a writ of certiorari can be issued against an order passed by the Subordinate Court or Tribunal or a quasi-judicial authority if the same is without jurisdiction or is in excess of the jurisdiction or is violative of the rules of natural justice or is vitiated by an error of law apparent on the face of the record. To put it differently, the High Court can issue a writ of certiorari if it is found that the order under challenge has been made by the Court or Tribunal or quasi-judicial which did not have the jurisdiction to pass such order or where such Court, Tribunal or Authority has failed to exercise the jurisdiction vested in it or where the action complained of has been taken in disregard of rules of natural justice. A writ of certiorari can also be issued if it is shown that while passing the order under challenge the Subordinate Court, Tribunal or quasi-judicial authority ignored legally admissible evidence or took into consideration inadmissible evidence or overlooked relevant material or the order is based on extraneous consideration/factors. However, a writ Court cannot sit in appeal over the orders of the Subordinate Court, Tribunal or quasi-judicial authority and interfere with the findings and conclusions recorded by such Court, Tribunal or Authority merely because on a re-appreciation of evidence different finding or conclusion is possible. The writ Court cannot go into sufficiency and adequacy of evidence which may have been relied by the Subordinate Court, Tribunal or quasi-judicial authority for reaching a particular finding or conclusion.

In **Syed Yakoob v. K.S. Radhakrishnan** the Supreme Court considered the High Courts' power to issue a writ of certiorari and held:

A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice.

The jurisdiction of High Court to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari.

A finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court.

In **Surya Dev Rai v. Ram Chander Rai** the Supreme Court noted the history of the development of High Court's jurisdiction to issue writs, orders or directions under Articles 226 and 227 of the Constitution of India and laid down the following propositions:

The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred thereagainst and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very

moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.

In practice, the parameters for exercising jurisdiction to issue a writ of certiorari and those calling for exercise of supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari, the High Court may annul or set aside the act, order or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case.

The parameters for exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a strait-jacket formula or rigid rules. Not less than often, the High Court would be faced with a dilemma. If it intervenes in pending proceedings there is bound to be delay in termination of proceedings. If it does not intervene, the error of the moment may earn immunity from correction. The facts and circumstances of a given case may make it more appropriate for the High Court to exercise self-restraint and not to intervene because the error of jurisdiction though committed is yet capable of being taken care of and corrected at a later stage and the wrong done, if any, would be set right and rights and equities adjusted in appeal or revision preferred at the conclusion of the proceedings. But there may be cases where “a stitch in time would save nine”. At the end, we may sum up by saying that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the judge.

The appellant was appointed as fair price shop dealer in Nearbylu Village, Yerravaripalem Mandal, Chittoor District. By an order dated 6-9-1997, respondent No.3 cancelled the appellant’s authorization on the ground that he had committed irregularities in the distribution of essential commodities. On appeal, Joint Collector, Chittoor (respondent No.2) remanded the case to respondent No.3 by observing that there was variation in the charge levelled against the appellant and the finding recorded by the officer. After remand, respondent No.3 issued fresh show cause

notice for taking action against the appellant on the following charges:

Charge-1: The A.S.O., MRO's Office, Y.V.Palem has conducted raids on 27.10.96 and checked the bus and found 70 litres of blue kerosene, being carried by one Sri T.Ramu of Rompicherla who stated that he purchased the same from Sri M.C.Sankaranarayana Chetty, F.P.shop dealer at Nerabylu at the rate of Rs.7.00 per litre.

Charge-2: At the time of inspection of the F.P.shop, there was a shortage of 35 litres of kerosene in the F.P. shop, when compared the ground balance with that of book balance, and booked a case under Section 6-A of the E.C. Act, 1955.

Charge-3: The F.P. shop dealer himself reduced the allotment of rice to the following cardholders by correcting and reducing the figures of family members on his own accord.

Charge-4: The F.P.shop dealer has issued excess stock of rice to the following cardholders against their norms for the month of 09/96.

Charge-5: The F.P. shop dealer has misused the quantity of 4.40 Qtls of rice meant for the following cards to his personal benefit for the month of September, 96.

Charge-6: The dealer has issued Rice of 40 Kgs to the pink cardholders of 97887 and 98116 and made entries in the accounts.

Charge-7: The dealer has issued Rice of 60 Kgs to the cardholders of 118118, 97561, 97916 and 98122 which are not in force and made fraudulent entries to the accounts for his personal benefit.

Charge-8: The dealer has issued 56 Kgs of rice to the cardholders families of Sri Venkataramaiah, Sri T.Siddaramaiah and Sri Munaswamy and made entries in the accounts.

Charge-9: The dealer has not distributed the commodities to the cardholders bearing No.98105, since it was lost by the card holder nearly four years back, and the dealer has not shown any balances for any month, as it has been in force.

After considering the explanation of the appellant and evidence brought on record,

respondent No.3 passed order dated 15-7-1998 whereby he cancelled the authorization of the appellant under Clause 3 (iv) of A.P. Scheduled Commodities (Regulation and Distribution by Card System) Order, 1973 (for short 'the 1973 Order'). Respondent No.3 held that all the eight charges have been proved against the appellant, and, therefore, he is not entitled to operate as fair price shop dealer. The relevant extracts of the order passed by respondent No.3 read as under:

> "From all the above, it is crystal clear that the dealer himself has reduced the quota of rice at his own will and he has not adhered to the rule of 'accountability' in distributing the essential commodities to the card holders. It is also clear that the dealer is reducing quota and giving excess quota to some cardholders athis will and pleasure and not applying his iota of mind in making entries in the relevant cards and it clearly shows his enormous slackness in his duties as F.P. shop dealer. It is also established from the report of inspecting officer that the dealer is responding to the cardholders with much ireness and rigidity and screaming over the cardholders, and this clearly shows the dealers authoritarian rule over the illiterate cardholders who were living in penury. It is also established that the dealer is intolerably arrogant towards the cardholders, and his personality stated to be a vicious in nature, and he is a regular offender, and he is not keeping any good/generous rapport with the cardholders, as per the report of inspecting officer.
>
> The irregularities committed by the above dealer are grave in nature, and there is no truth in his explanation and no charge is left unproved. He had resorted to the grave irregularities and caused inexplicable inconvenience and harassment to the cardholders. In the light of the above circumstances, it is not desirable to continue him as F.P. shop dealer in the interest of public distribution system and also in the interest of poor card holders. Hence, the authorization issued to Sri M.C.Sankaranarayana Chetty of Nerabylu village of Yerravaripalem Mandal is hereby stands canceleld under clause 3(4) of A.P. S.C. (RD by CS) ORDER, 1973.

The appeal and revision filed by the appellant against the aforementioned order were dismissed by respondent No.2 and District Collector, Chittoor (respondent No.1) vide their oders dated 22-1-1999 and 18-3-2000 respectively.

While dismissing the revision, respondent No.1 did take cognizance of the fact that the appellate authority had expressed doubts about the correctness of the findings recorded by the original authority (respondent No.3) in respect of one charge, but observed that the other charges proved against the appellant were serious enough to warrant cancellation of his authorization.

The learned single Judge also took cognizance of the nature of allegations

levelled against the appellant and came to the conclusion that the finding recorded by the three authorities that he was guilty of misusing the license issued under 1973 Order did not warrant interference under Article 226 of the Constitution of India.

Learned counsel for the appellant made feeble attempt to persuade us to interfere with the order of the learned Single Judge by arguing that he has not recorded independent reasons for approving the order of cancellation of authorization.

In our opinion, the orders passed by the three respondents do not suffer from any jurisdictional infirmity or error of law warranting interference under Article 226 of the Constitution and the learned Single Judge did not commit any error by refusing to entertain the appellant's prayer. It is not in dispute that before cancelling the authorization, respondent No.3 issued show cause notice and gave opportunity to the appellant to submit his explanation in respect of the eight charges levelled against him. Thereafter, the officer concerned examined the reply of the appellant in the context of material available before him and recorded reasons for holding that the charges are proved. Although respondent No.2 found minor discrepancy in the findings recorded by respondent No.3 in respect of Charge No.1, but upheld the order of cancellation of authorization by observing that the appellant had been found guilty of grave irregularities. Respondent No.1 concurred with respondent No.2. In our view, the concurrent findings recorded by respondents 3, 2 and 1 that the appellant had committed grave irregularities and violated the conditions of licence are based on correct appreciation of the facts and evidence and this Court cannot sit in appeal over the judgment of the authorities concerned and interfere with the findings recorded by them merely because on a re-appreciation of evidence, it is possible to discover some minor flaws in the orders impugned in the writ petition. The learned Single Judge, in our opinion, rightly declined to entertain the appellant's challenge to the well reasoned orders passed by respondents No.3, 2 and 1 respectively and we see no reason to differ with him.

In the result, the appeal is dismissed.

G.S.SINGHVI, CJ.

R.SUBHASH REDDY, J.

19th DECEMBER, 2005.

Mvb/***kvni*** / svs

HON'BLE THE CHIEF JUSTICE SRI G.S.SINGHVI

AND

HON'BLE SRI JUSTICE R.SUBHASH REDDY

Writ Appeal No.2498 of 2005

Between:

M.C.Shankaranarayana Chetty . . .Appellant

And

The Dist. Collector, Chittoor, and others . . .Respondents

:: JUDGMENT ::

Counsel for the appellant : Sri M.Shivaram Krishna Murthy

Counsel for the respondents : GP for Civil Supplies

December 19, 2005

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